



CALPINE

4160 DUBLIN BOULEVARD
DUBLIN, CALIFORNIA 94568
925.479.6600
925.479.7312 (FAX)

May 16, 2003

California Energy Commission
Dockets Office
Attn: Docket No. 03-RPS-1078
1516 Ninth Street, MS-4
Sacramento, CA 95814-5504

Regarding: Calpine Corporation's comments to the Renewable Portfolio Standard
Phase II Implementation Standard Staff Workshop May 12 and 13, 2003

Dear Energy Commission:

Calpine appreciates the opportunity to submit the following comments regarding the Renewable Portfolio Standard Phase II Implementation Staff Workshop. These written comments supplement the oral comments that we made during the workshop and follow the questions posed in the Notice of Staff Workshop.

1. How should the CEC define "New" for the purpose of SEP eligibility? For example, should "New" be defined as coming online after a specific date? If so, what date is appropriate? If such a date is chosen, does the "New" designation apply forever, or does it expire after some period of time?

We recommend that the CEC define "New" for the purpose of Supplemental Energy Payment (SEP) eligibility to be facilities that began operation after September 26, 1996. The "New" designation should apply for 10 years after the facility's commercial operation date. The facility should be eligible for 10 years of SEPs beginning at any time during that period. CEC certified incremental geothermal energy should be eligible for SEP.

2. Repowered renewable generation facilities are eligible for SEPs "if the capital investment to repower the existing facility equals at least 80 percent of the value of the repowered facility." Section 383.5(d)(3) How should the CEC confirm that a repowered renewable generation facility meets this standard?

We recommend that the term "value" referenced in Section 383.5(d)(3) of a repowered renewable facility be based on depreciated book value of the power train, i.e., turbine, generator, and boiler, if applicable. The value of real estate, buildings, foundations, substations, transmission lines, steam gathering systems and other project facilities that are not typically part of a "repower" should not be included in the evaluation. The applicant should provide the CEC with accounting data to document the value.

3. Are renewable generation facilities that began receiving or have had funds encumbered from the New Account before January 1, 2002 eligible for SEPs? If yes, what conditions if any, would apply to the award of SEPs for these facilities?

Facilities with existing New Account awards should be able to participate in utility renewable solicitations. These facilities should be eligible for SEPs if they give up their existing awards. Since the market price referent will probably not be known until after a utility solicitation takes place, we recommend that a facility with an existing award be able to bid assuming that the existing award will remain in place. If it is then determined that the bid will exceed the market price referent and require SEPs, the bidder would have the choice of either a) giving up the existing award, b) giving up the SEPs, or c) withdrawing the bid.

4. To whom can SEPs be made: the facility owner/operator; the retail supplier; and/or potentially an intermediary that has taken possession of the renewable generation from the renewable generation facility and has the contract with the retail seller?

SEPs should be made to the same entity as the energy payments under the power purchase agreement.

5. What are the performance standards for paying SEPs? Are there any circumstances where SEPs would be paid when generation has not occurred?

SEPs are production payments and should be paid on the basis of energy delivered under the power purchase agreement.

6. On what frequency should SEPs be paid?

SEPs should be paid on the same frequency and at the same time as energy payments under the power purchase agreement.

7. Under what circumstances should SEPs be terminated for a facility? How would termination provisions in the CEC's SEP agreements affect the ability of new projects to secure financing, if at all?

The CEC SEP agreement should provide that SEPs terminate if the underlying power purchase agreement terminates in accordance with its terms. There should be no additional termination provisions in the CEC agreement.

8. SEPs are to be awarded only to facilities eligible for funding. At what point in the procurement process is funding eligibility established? At what point in the procurement process should funds be encumbered? How does the encumbering of funds, or the state's budget deficit, affect the ability of new projects to secure financing, if at all?

The CEC should establish a procedure for self-certification of eligible renewable energy facilities as soon as possible, and then audit the facilities as appropriate. SEPs should be encumbered at the point that a winning power purchase agreement is approved by the CPUC, or if CPUC approval is not required, when the power purchase agreement is signed.

9. Under what conditions, if any, should the CEC facilitate or administer auctions for SEPs?

The CEC will probably not need to facilitate or administer auctions for SEPs. In general the utilities will conduct solicitations for power that will result in SEPs being awarded. At any given time, the most recent auction in a utility's service territory should determine a SEP level that would apply to renewable energy sales to energy service providers and community aggregators.

10. Under what conditions, if any should the CEC apply targets, milestones, or other conditions as requirements for SEP payment?

The CEC should not set targets, milestones and conditions related to SEPs, but instead rely on the terms and conditions in the power purchase agreement.

11. The CEC has authority to require a forfeitable bid bond or other financial guaranty from applicants competing for funding. ... Under what conditions should the CEC exercise this authority? Which forms of financial guaranty are appropriate for the CEC to accept?

Forfeitable bid bonds or other financial guarantees should be covered in the power purchase agreement, and not be duplicated by the CEC.

12. The CEC has authority to consider establishing caps on SEPs. ... On what basis if any, should SEPs be capped? ...

We recommend that the CEC not establish a cap on SEPs, but rather let the utility least cost/best fit process guide renewable resource selection. By establishing a cap on SEPs, the CEC may restrict the selection process to the lowest priced bids that actually increase ratepayer costs relative to resources that provide a better fit with a utility's system.

13. The CEC has the responsibility to manage funds given multiple retail sellers and categories of retail sellers. Whether or not caps are established, should the CEC allocate available funding among retail sellers or retail seller categories?

Each retail seller should have a first shot at utilizing SEPs derived from their customer's Public Goods Charge funds. Funds not used by a retail seller should be made available to other retail sellers.

14. The CEC may provide funding preference based on the following:
“383.5(d)(2)(F) In awarding funding, the Energy Commission may provide preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.” How should the CEC establish that such a condition exists? Under what conditions would such a preference be applied?

We recommend that the CEC set an objective standard on how benefits to minority and low-income communities is to be demonstrated. For example, a bidder could provide an economic study demonstrating the property taxes, royalties, employment and other economic benefits provided by a project to a region of high poverty or unemployment as a way to meet this criterion.

15. If funding demand exceeds supply, how should the CEC allocate funding among eligible facilities?

If funding demand exceeds supply, the CEC should allocate funding in accordance with the least cost/best fit ranking as determined by the utility solicitation process.

16. In the implementation of the New Renewables Resources Account from 1998 to 2002 under Senate Bill 90 (Chapter 854, Statutes of 1996), projects were limited to receive no more than 25 percent of the funds available from each auction. Should such a limit remain in place consistent with the prior program provisions?

We believe that this rule is no longer relevant and that no limit should be applied. Given that the Annual Percentage Target for each Investor Owned Utility is less than 100 mw, the 25 percent limit would unreasonably restrict the size of awards and potentially raise the cost of renewable power to ratepayers.

We have no further comments on the remaining questions.

Thank you for considering our comments. Please contact me if you have any questions regarding these comments.

Sincerely,

Jack Pigott
Director, Renewable Affairs
Calpine Corporation
(925) 479-6646